

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 40.62

continue to engage in such activity pending TTB action on the application.

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29408, June 22, 2009, § 40.47 was revised, effective June 22, 2009 through June 22, 2012.

§ 40.48 Penalties and forfeitures.

Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

§ 40.49 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.40, Delegation of the Administrator's Authorities in 27 CFR Part 40, Manufacture of Tobacco Products and Cigarette Papers and Tubes. You may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB-44, 71 FR 16949, Apr. 4, 2006]

Subpart E—Qualification Requirements for Manufacturers of Tobacco Products

§ 40.61 Qualification.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every person who manufactures tobacco products must qualify for, and obtain, a permit as a manufacturer of tobacco products in accordance with the provisions of this part.

(b) *Exceptions.* The following persons are not considered to be engaged in the business of manufacturing tobacco products for purposes of this part:

(1) A person who produces tobacco products solely for that person's own consumption or use;

(2) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse;

(3) A retailer of tobacco products, such as a tobacconist, who takes tax-paid tobacco products out of the pack-

age, as that term is defined in § 40.11, in front of waiting customers and places the tobacco products into a different container for immediate delivery to those customers; or

(4) A person whose operations are limited to, and who holds a permit as, a manufacturer of processed tobacco.

(c) *Minimum manufacturing and activity requirements.* A permit to manufacture tobacco products will only be granted to those persons whose principal business activity under such permit will be the manufacture of tobacco products. A permit will not be granted to any person whose principal business activity under such permit will be to receive or transfer tobacco products in bond. As a minimum activity requirement, in order to qualify for a permit, the quantity of tobacco products manufactured under the permit must be equivalent to, or exceed, the quantity to be transferred or received in bond under the permit. For the purposes of this section, the activity of packaging processed tobacco may be sufficient to qualify as a manufacturing activity.

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.61 was revised, effective June 22, 2009 through June 22, 2012.

§ 40.61a Transitional rule.

Any person who:

(a) On August 5, 1997, was engaged in business as a manufacturer of roll-your-own tobacco, and

(b) Before January 1, 2000, submits an application, as provided in this part, to engage in such business, may, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the Internal Revenue Code of 1986 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture roll-your-own tobacco under such chapter 52.

[T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

§ 40.62 Application for permit.

Every person, before commencing business as a manufacturer of tobacco products as defined in § 40.11, shall make application for, and obtain, the